PURPOSE

Ensure that all incidents that occur in a state run and private, contracted juvenile justice residential facilities are reviewed for continuous quality improvement of prevention and response procedures.

DEFINITIONS

Seclusion Room

A room or area approved for the confinement or retention of a single youth. The door to the room may be equipped with a security locking device which operates by means of a key or is electrically operated and has a key override and emergency electrical backup in case of a power failure. Mich Admin Code, R 400.4101(z).

See JRG, JJ Residential Glossary.

RESPONSIBLE STAFF

Facility director or designee, supervisory staff and facility staff who initiate, witness and/or are involved in an incident that requires reporting.

PROCEDURE

Each facility must develop and implement standard operating procedures (SOPs) relative to reviewing incidents. At a minimum, SOPs must contain the following requirements outlined in this policy item.

INCIDENT REVIEW

Facility staff are responsible for involving the youth in a review of any restraint including, de-escalation techniques used and problem-solving for behaviors leading up to the restraint.

The facility director or designee may choose to establish an incident review committee.

The facility director or designee must:

- Ensure that each incident report is reviewed for its underlying cause. In particular, review each incident report to determine if physical barriers enabled the occurrence of the incident, if staffing levels and training were appropriate, and if additional

technology would be of use in mitigating or preventing future incidents.

- Ensure that appropriate corrective actions resulting from the incident report review are developed and implemented.

- Ensure that relevant youth behavior documented in the incident report is discussed in group and treatment team meetings and documented in treatment plans.

The following incidents require a review:

- Personal restraint.
- Mechanical restraint.
- Seclusion.
- Sexual Abuse.
- Death.
- Serious injury.
- Illness requiring inpatient hospitalization.

RESTRAINT

Debriefings

A comprehensive review of any restraint must occur within 24 hours. Emergency Rule 2(e). The review may need to occur multiple times over multiple days to support the youth involved and youth who witnessed the restraint. Family should be invited to assist.

Debriefing following physical or mechanical restraint is a required step to engage with staff, youth and family to support the youth and identify approaches to prevent a future incident. The goals of debriefing are:

- To reverse, or minimize, the negative effects of the use of restraint:
  - Evaluate the physical and emotional impact on all involved individuals.
  - Identify need for and provide counseling or support to the youth and staff involved for any trauma that may have resulted or emerged from the event.
  - To develop appropriate coping skills.
- To prevent the future use of restraint.

- Assist the youth and staff in identifying what led to the incident and what could have been done differently.
- Determine if all alternatives to restraint were considered.

- To address organizational problems, issues or processes and make appropriate changes.
  - Determine what CCI barriers may exist to avoid the use of restraint in the future.
  - Recommend changes to the CCI philosophies, procedures, environment and standards of care, treatment approaches, staff education and training.
- For the treatment team to determine how to assist the youth and staff more effectively in understanding what precipitated the event.
- To develop interventions designed to avoid future need for restraint.

The following debriefings are required with key participants following any use of restraint:

- Debriefing of the restraint among the staff involved and supervisors immediately following the restraint. Documentation of the conversation must include:
  - Examination of preventive strategies that could have been used to avoid the restraint.
  - Review of any changes in the child's condition that may require follow up.
- Debriefing with the youth. Documentation must include the following details:
  - The youth's call with their parent(s) or caregiver(s) that occurred after the restraint which must be consistent with the youth's treatment plan.
  - The youth's perspective of preventive strategies that could have been used to help support the youth to avoid behavior or help the youth de-escalate.
  - Time and date the debriefing occurred with the staff and youth.

Facility Review

Facility reviews assist with determining if restraint could have been avoided, or if there is a pattern of use within the facility. A quality assurance review must be initiated within 24 hours by a level of supervision above the staff ordering or conducting the restraint to determine if the requirements of the facility's procedures were followed in directing and conducting the restraint.

Semi-Annual Review

The facility director or designee is responsible for gathering and reviewing all incident reports regarding youth restraint at least twice a year. Mich Admin Code, R 400.4159(6)(d).

Non-transport Mechanical Restraint Review

The facility director is responsible for reviewing the non-transport use of mechanical restraints to determine if procedures were followed and take any corrective action needed.

SECLUSION

When a youth is in seclusion for more than three hours, an administrative review above the level of the supervisor who approved the extended use shall be completed and documented within 48 hours. Mich Admin Code, R 400.4162(5).

SEXUAL ABUSE

The facility director and/or designee(s) must create a sexual abuse incident review committee consisting of the parties listed in 28 CFR 115.386(c):

- Upper-level management staff, with input from line supervisors.
- Investigators.
- Medical or mental health practitioners.

All sexual abuse incidents must be reviewed at the conclusion of the investigation unless the allegation has been determined to be unfounded. 28 CFR 115.386(a). The review shall take place within 30 days of the conclusion of an investigation.

Pursuant to 28 CFR 115.386(d)(1)-(6), the incident review committee shall document the following:

- Consideration of whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- Determination if corrective actions are needed to reduce the number/rate of sexual abuse incidents.
- Consideration of whether the incident or allegation was motivated by:
  - Race.
  - Ethnicity.
  - Gender identity such as lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status.
  - Gang affiliation.
  - Other group dynamics within the facility.
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- Review the results of investigations carefully and use the findings to support requests as appropriate.
- Assess the adequacy of staffing levels in that area during different shifts.
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to what is mentioned above, and any recommendations for improvement. Submit each report to the facility director and Prison Rape Elimination Act compliance manager.

Documentation

Use the MDHHS-5818-PREA, 30 Day Sexual Abuse Incident Review to document the review. Store the completed MDHHS-5818-PREA in the facility's PREA binder.

PREA Data Review

The facility director or designee is responsible for maintaining, reviewing and collecting data as needed for all available incident-based documents, including reports, investigation files and sexual abuse incident reviews. 28 CFR 115.387(d).

DEATH OR SERIOUS INJURY/ILLNESS

When a youth is seriously injured, has an illness requiring inpatient hospitalization or dies, the facility director and designee(s) should review the incident to determine changes that could be made to prevent or respond to future incidents.

FORMS

MDHHS-5818-PREA, 30-Day Sexual Abuse Incident Review.

LEGAL BASE

Federal

Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.386-115.387.

Provides requirements for sexual abuse incident reviews and data collection.

Michigan Administrative Code

Mich Admin Code, R 400.4159(6)(a) & (6)(d).

Provides requirements for an incident review within 48 hours and a bi-annual review of all incidents.

Mich Admin Code, R 400.4162(5).

Requires an administrative review within 48 hours when a seclusion room is used for more than 3 hours.

Emergency Rules of the Department of Health and Human Services entitled "Prohibition of Prone Restraint; Procedures Involving Other Restraints in Child Caring Institutions", 2020 Mich Reg 14 (August 15, 2020), p 206.

POLICY CONTACT

Facility supervisors or managers may submit policy clarification questions to: Juvenile-Justice-Policy@michigan.gov.